

Brown, C. Allen

Appl. No. 10/761,701

Filed: January 21, 2004

Atty. Docket No. 23060-RA

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**REMARKS/ARGUMENTS****Specification Amendment**

The specification has been amended to more clearly point out that nail hole 202 is a blind hole, as is clearly depicted in FIG. 1, and that string groove 203 is 'U'-shaped and is longitudinal, as is also clearly depicted in FIG. 1.

**Objections**

Examiner has objected to claim 23 as containing subject matter in lines 3-5 that is included in claim 7 to which claim 23 depended.

Applicant has amended claim 23 to delete the duplicated subject matter and to now depend from claim 11.

**103(a) Rejections**

Examiner has rejected claims 1, 2, 5-8, 10-14, 16, 18, 21 and 23 over Kelley (U.S. Pat. No. 2,495,974) in view of Canalle (U.S. Pat. No. 6,571,487); claims 4, 9 and 24 over Kelley (U.S. Pat. No. 2,495,974) in view of Canalle (U.S. Pat. No. 6,571,487), and further in view of Hodges (U.S. Pat. No. 6,408,529); claim 15 over Kelley (U.S. Pat. No. 2,495,974) in view of Canalle (U.S. Pat. No. 6,571,487), and further in view of Pearson (U.S. Pat. No. 3,046,884); claims 19 and 22 over Kelley (U.S. Pat. No. 2,495,974) in view of Canalle (U.S. Pat. No. 6,571,487), and further in view of Presley (U.S. Pat. No. 3,161,941); and claims 1, 7, 17 and 20 over Presley (U.S. Pat. No. 3,161,941) in view of Canalle (U.S. Pat. No. 6,571,487).

Applicant has amended claims 1, 2, 7, 8, 12-15, 19, 22 and 23 to reflect that Applicant's invention is limited to a single wheel, thereby distinguishing over Kelley '974. As pointed out by Applicant in the prior Office Action response, Kelley '974 requires two wheels in order to function. The description of Kelley '974 specifically cites how the wheels must work together and thus require an increase in the size of the housing to incorporate two

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wheels. Further, the two wheels required by Kelley '974 prevent directional turning of the apparatus, while Applicant's single wheel permits such directional turning. Applicant's invention requires only one wheel and, accordingly, is a non-obvious improvement over Kelley '974.

Applicant has further amended claims 1 and 12 to more clearly point out that Applicant's invention requires only a single wheel to indicated measurements based on multiple revolutions of Applicant's single wheel, thus distinguishing over Presley '941, which requires two wheels (a traction wheel and a disk) to accomplish such measurements.

Applicant has amended claim 7 to remove reference to a truncated front wall.

Applicant has amended claim 11 to more clearly define that the housing comprises a 'P'-shape, as disclosed at page 13, lines 1-2 of the specification and in FIG. 1. Applicant has further amended claim 11 to include structural limitations of walls disposed at various angles to each other, as disclosed in the specification at page 14, lines 7-15 and in FIG. 1. None of the prior art discloses a 'P'-shaped housing comprising the wall configurations of Applicant's invention, which are so structured to provide specific reference angels for marking of construction work pieces.

Applicant has amended claims 17 and 20 to more clearly point out that the nail hole is a blind hole. Applicant respectfully points out that hole 50 of Presley '941 is a throughhole for a keychain and, thus, Applicant's invention distinguishes over the hole of Presley '941.

Applicant has amended claim 18 and 21 to more clearly point out that the string groove comprises a 'U'-shaped longitudinal channel. As stated in the prior Office Action response, the channel of Applicant's string grooves can retain a plumb line in a linear fashion, which Canelle '487 cannot.

Applicant has amended claim 23 to change dependency and to delete text effectively contained in claim 11 upon which claim 23 depends.

Applicant further points out that Presley '941 requires a second disk in order to achieve the same functionality as Applicant's invention. That is, Presley '941 has a second disk, gear driven by its main wheel to count the revolutions of the main wheel. Applicant's device provides secondary and tertiary inch-demarcating numerals on the main wheel (see

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page 12, line 19 through page 13, line 4), thereby obviating the need for the second wheel of Presley '941.

### CONCLUSION

No new matter has been added.

In light of the above arguments, and the amendments to claims 1, 2, 7, 8, 11, 12-15, 17-23, Applicant respectfully believes that Applicant has traversed Examiner's rejections.

For the reasons set forth above, and the amendments to claims 1, 2, 7, 8, 11, 12-15, 17-23, Applicant further respectfully believes that claims 1, 7 and 12, and all claims depending therefrom, are now in condition for allowance and that Examiner's rejection of claims depending therefrom is moot. If Examiner disagrees with Applicant's position and would like to receive further clarifying explanations of the significance of Applicant's invention, it is respectfully requested that Applicant be granted a telephonic, or in-person, interview with Examiner.

Otherwise, should the Examiner have any questions regarding this submission, he is invited to contact the undersigned counsel at the telephone number below.

Respectfully submitted, this 13<sup>th</sup> day of December, 2005,



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